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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED: 10/27/2026 1:09 PM
ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Establishing a nonopioid directive process and form (HB 3211, 2025)

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/23/2026 5:00 PM
The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
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HEARING(S)
Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/17/2026
TIME: 11:30 AM
OFFICER: Staff

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 971-277-2343
CONFERENCE ID: 926591023
SPECIAL INSTRUCTIONS:
This hearing is being held remotely via Microsoft Teams. To provide oral (spoken) testimony during this hearing, please contact publichealth.rules@odhsoha.oregon.gov to register to receive the link for the Microsoft Teams video conference via calendar appointment, or you may access the hearing using the meeting URL above. Alternatively, you may dial 971-277-2343, Phone Conference ID 926 591 023# for audio (listen) only. This hearing will close no later than 12:30PM but may close as early as 12:00PM (noon) if everyone who signs up to provide testimony has been heard from.

Accessibility Statement: For individuals with disabilities or individuals who speak a language other than English, OHA can provide free help. Some examples are: sign language and spoken language interpreters, real-time captioning, braille, large print, audio, and written materials in other languages. If you need help with these services, please contact the Public Health Division at 971-673-1222, 711 TTY or publichealth.rules@odhsoha.oregon.gov at least 48 hours before the meeting. All relay calls are accepted. To best ensure our ability to provide a modification please contact us if you are considering attending the meeting and require a modification. The earlier you make a request the more likely we can meet the need.

NEED FOR THE RULE(S):

The Oregon Health Authority (OHA), Public Health Division is proposing to permanently adopt administrative rules in chapter 333, division 271 relating to the execution of a non-opioid directive form. A non-opioid directive form is a method for an individual to communicate their wishes to not receive opioids for pain management and instead receive alternatives. The Oregon Health Plan (OHP) and other health insurance organizations do have alternative medications for pain management covered. There are specific exemptions for emergency, hospice and substance use disorder care.

These proposed administrative rules are in response to passage of HB 3211 (2025 Oregon Laws, chapter 154) and include the following:
- Recording and revoking form;
- Confidentiality and data handling;
- Exemptions; and
- Liability protections.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

- ORS chapter 127: https://www.oregonlegislature.gov/bills_laws/ors/ors127.html
- HB 3211 (Oregon Laws 2025, chapter 154): https://olis.oregonlegislature.gov/liz/2025R1/Downloads/MeasureDocument/HB3211
- Michigan non-opioid directive rules: https://ars.apps.lara.state.mi.us/AdminCode/DownloadAdminCodeFile?FileName=R%20333.1001%20to%20R%20333.1004.pdf&ReturnHTML=True
- Michigan non-opioid directive form https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.michigan.gov%2Fopioids%2F-%2Fmedia%2FProject%2FWebsites%2Fopioids%2Fdocuments%2FMDHHS-5793.dotx%3Frev%3Dd9495eec2cd246bcaf7644cb28c508b7&wdOrigin=BROWSELINK
- Massachusetts non-opioid directive form: https://www.mass.gov/doc/voluntary-non-opioid-directive/download
- Louisiana's non-opioid directive form: https://ldh.la.gov/assets/docs/BehavioralHealth/Opioids/VoluntaryNon-OpioidFormFINAL9618.pdf

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STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

It is unclear how adoption of these rules will affect racial equity. It is likely that a nonopioid directive form will be perceived differently by health care providers depending on the individual's medical history, the race of the individual, the provider's experience and the region of the state where the individual lives. There are historic and ongoing disparities in pain management/ pain control as well as opioid and substance use disorder. These issues can be entangled, so parsing likely outcomes is difficult.

Some potential positive outcomes from making this form available to patients and their health care providers include:
- Supporting improved outcomes for nonwhite groups by initiating conversations about pain management in groups

with disproportionate rates of death. Data on overdose-related fatalities related to opioid use also has significant disparities based on race and age, which can be seen on Oregon's dashboard on injury data (https://oregoninjurydata.shinyapps.io/overdose/). Reviewing deaths by race in 2024, rates of deaths among American Indian/Alaska native and Black Oregonians respectively were 70 people per 100,000 (AI/AN) and 84 people per 100,000 compared to white individuals with a rate of fewer than 40 people per 100,000.

- Providing a clearer directive about which patients may choose to avoid opioids. Emergency pain management has clear racial disparities, and this bill could correct some of those biases. For example, in Oregon, more white patients than any other race receive pain management in emergency medical services (EMS) situations. In one report on Oregon data, Black patients were 30% less likely than white patients to receive any pain medications; Asian patients were 26% less likely than white patients to receive any pain medication(1) . Lack of adequate pain management can have longer term physiological impacts and offering patients an opportunity to signal their preferences regarding opioid use could improve pain management.

Some potential negative outcomes include:

- Submission of the non-opioid directive may be interpreted as a signal of chronic pain or substance use disorder. People experiencing chronic pain report stigma as a barrier to accessing pain management and health care services to The Oregon Pain Management Commission's annual reports (https://www.oregon.gov/oha/HPA/dsi-pmc/Pages/reports.aspx). When added to other racial stigma, this may create further inequities in pain management by race. A requirement in the law to not require execution of this form as a requirement to receive health care services may mitigate this issue (ORS 127.690(2)(d)).
- Association of this form with behaviors that associated with overdose-related fatalities, which have significant disparities by race (see above) and by county in Oregon's dashboard on injury data.

(1) Kennel, Jamie. "Investigating EMS treatment disparities by patient race/ethnicity for traumatic and painful emergencies." 2018, p6. This study used the Oregon NEMSIS dataset in collaboration with OHA-PHD, Multnomah county and the Oregon Institute of Technology.

FISCAL AND ECONOMIC IMPACT:

If a health care professional or health care facility is presented with a non-opioid directive form by an individual or an individual's health care representative, the health care professional or health care facility will be required to record the non-opioid directive into the individual's medical record. The costs to update electronic medical record systems is unknown.

Health care professional organizations, health care regulatory boards and health care facilities will need to train staff about this new requirement, which will take staff time and resources.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) There is no anticipated impact on members of the public.

Local county public health departments that provide primary care, dental care and/or mental health services to individuals may be impacted by the requirements of these rules if presented with a non-opioid directive form that must be documented in an individual's medical record. Other governmental organizations that provide health care or respond

to emergencies will also have to carry out the requirements of this statute.

There are nine hospitals that are operated by special districts that will be impacted by the adoption of these rules: Bay Area Hospital, Blue Mountain Hospital, Coquille Valley Hospital, Curry General Hospital, Harney District Hospital, Lake District Hospital, Lower Umpqua Hospital District, Southern Coos Hospital and Health Center, and Wallowa Memorial Hospital.

If presented with a non-opioid directive by an individual, these hospitals will be required to document the directive in the individual's medical record. Documentation of nonopioid directive will take staff time and may require updates to electronic medical record systems. The cost to update necessary programs is unknown.

Health professional regulatory boards and the Oregon Health Authority may need to investigate complaints which will take staff resources.

(2)(a) The OHA does not collect data on the number of health care facilities that may be considered a small business. There are no known ambulatory surgery centers, extended stay centers, outpatient renal dialysis facilities or hospitals subject to these rules in Oregon that can be considered a small business.

The OHA does not collect data on the number of health care professionals that may operate a small business, but it is assumed that there are several health care professional practices that would be considered a small business. Additionally, rural health clinics may be impacted by these requirements and would also be considered a small business.

(b) OHA does not have data on the number of health care facilities subject to these rules that could be considered a small business. Health care professionals that do operate a small business will be required to keep a record of a nonopioid directive form in an individual's medical record as well as remove the record should an individual revoke the directive. Training will be necessary for consistent record management.

(c) OHA does not have data on the number of health care facilities subject to these rules that could be considered a small business. Health care professionals that do operate a small business will be required to keep a record of a nonopioid directive form in an individual's medical record as well as remove the record should an individual revoke the directive. This will require staff time and resources and may result in necessary updates to an electronic medical record system.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Health care providers and health care facilities were invited to participate on the rule advisory committee.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
333-271-0000, 333-271-0005, 333-271-0010, 333-271-0020, 333-271-0030, 333-271-0040, 333-271-0050

ADOPT: 333-271-0000

RULE SUMMARY: Adopt OAR 333-271-0000 – This rule specifies that the purpose of these rules is to allow an individual to voluntary document with a health care provider the individual’s wish to not receive opioid medications and that this form may not be required by a health care provider or facility.

CHANGES TO RULE:

333-271-0000
Applicability
(1) The purpose of OAR chapter 333, division 271 is to allow an individual to voluntarily document with a health care provider the individual's wish not to receive opioid medications. ¶
(2) A health care provider or facility may not require an individual to sign a nonopioid directive in order to receive health care services.
Statutory/Other Authority: ORS 127.690, ORS 413.042
Statutes/Other Implemented: ORS 127.690

ADOPT: 333-271-0005

RULE SUMMARY: Adopt OAR 333-271-0005 – This rule identifies definitions used in OAR chapter 333, division 271.

CHANGES TO RULE:

333-271-0005
Definitions
As used in OAR chapter 333, division 271, the following definitions apply:¶
(1) "Emergency medical services provider" has the meaning given that term in ORS 682.025.¶
(2) "Health care advocate" has the meaning given that term in ORS 127.765. ¶
(3) "Health care facility" has the meaning given that term in ORS 442.015.¶
(4) "Health care provider" has the meaning given that term in ORS 127.505.¶
(5) "Health care representative" has the meaning given that term in ORS 127.505.¶
(6) "Non-opioid directive" means a form that describes an individual's wishes to avoid opioids that should be shared across their health care team.
Statutory/Other Authority: ORS 127.690, ORS 413.042
Statutes/Other Implemented: ORS 127.690

ADOPT: 333-271-0010

RULE SUMMARY: Adopt OAR 333-271-0010 – This rule adopts the nonopioid directive form. This rule describes the process for recording a non-opioid directive form and that an individual, their health care advocate or their health care representative may present it. The health care provider may incorporate this into existing patient forms. The nonopioid directive must be expeditiously documented into the patient's medical record.

CHANGES TO RULE:

333-271-0010
Recording a Nonopioid Directive Form
(1) A health care provider presented with a nonopioid directive form must, without undue delay, record the directive in the individual's medical record.¶
(2) A nonopioid directive form must be recorded in a manner, whether paper or electronic, that makes the directive available to other health care providers who may review the record.¶
(3) A nonopioid directive form may be incorporated into an existing patient form or other documentation used by the health care provider or health care facility.¶
(4) A nonopioid directive form may be presented by an individual, a health care advocate or a health care representative.¶
(5) The nonopioid directive form is incorporated by reference and is available at [INSERT FINAL WEBSITE].
Statutory/Other Authority: ORS 127.690, ORS 413.042
Statutes/Other Implemented: ORS 127.690

ADOPT: 333-271-0020

RULE SUMMARY: Adopt OAR 333-271-0020 – This rule describes how a nonopioid directive form may be revoked. It can be revoked by the principal or by the health care representative or advocate who filed it.

CHANGES TO RULE:

333-271-0020
Revoking a Nonopioid Directive Form
(1) A nonopioid directive form filed for an individual may be revoked at any time and in any manner by which that individual is able to communicate their intent to revoke the form.¶
(2) A nonopioid directive form filed by a health care advocate or health care representative may be revoked at any time by issuing the revocation in writing and providing the revocation to the individual's health care provider.¶
(3) An individual, health care representative or health care advocate, may, but are not required to, use the nonopioid directive form to revoke a directive.
Statutory/Other Authority: ORS 127.690, ORS 413.042
Statutes/Other Implemented: ORS 127.690

ADOPT: 333-271-0030

RULE SUMMARY: Adopt OAR 333-271-0030 – The purpose of this rule is to affirm confidentiality requirements of the nonopioid directive form, comparable to other health care information.

CHANGES TO RULE:

333-271-0030
Confidentiality Provisions
A health care provider who records, discloses, distributes, or otherwise interacts with a nonopioid directive form is required to abide by all relevant state and federal laws, rules, and regulations applicable to confidentiality of other similar health data.
Statutory/Other Authority: ORS 127.690, ORS 413.042
Statutes/Other Implemented: ORS 127.690

ADOPT: 333-271-0040

RULE SUMMARY: Adopt OAR 333-271-0040 – This rule identifies exemptions to the nonopioid directive.

CHANGES TO RULE:

333-271-0040
Exemptions
A nonopioid directive does not preclude administration or prescription of opioids when the criteria set forth by ORS 127.690 are met.
Statutory/Other Authority: ORS 127.690, ORS 413.042
Statutes/Other Implemented: ORS 127.690

ADOPT: 333-271-0050

RULE SUMMARY: Adopt OAR 333-271-0050 – This rule defines the individuals and entities that are not subject to criminal liability, civil liability or professional disciplinary action for failing to administer, prescribe or dispense an opioid or the inadvertent administration of an opioid to an individual who has a nonopioid form executed, provided that the act of omission was in good faith.

CHANGES TO RULE:

333-271-0050
Liability Protections
(1) The individuals and entities listed in section (2) of this rule are not subject to civil liability, criminal liability, or professional disciplinary action for failing to administer, prescribe, or dispense an opioid, or for the inadvertent administration of an opioid, to an individual who has executed a nonopioid directive form or who has had a nonopioid directive form executed on the individual's behalf, provided the act or omission occurred in good faith. ¶
(2) The protections described in section (1) apply to:¶
(a) A health care provider whose scope of practice includes the prescribing, administering, or dispensing of a controlled substance;¶
(b) A health care facility;¶
(c) An employee of a health care provider;¶
(d) An employee of a health care facility; or¶
(e) Emergency medical services providers.
Statutory/Other Authority: ORS 127.690, ORS 413.042
Statutes/Other Implemented: ORS 127.690